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**MAR 07 2011**

**OFFICE OF PETITIONS**

In re Application :  
Zhang, et al. :  
Application No. 10/629,308 : DECISION ON APPLICATION  
Filed: July 29, 2003 : FOR PATENT TERM ADJUSTMENT  
Docket No. J&J-100US :

This is a decision on the petition under 37 CFR 1.705(b), filed December 22, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from eleven (11) days to zero (0) days.

The application for patent term adjustment is **GRANTED**.

On September 24, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was eleven (11) days.

The Office initially determined a patent term adjustment of eleven (11) days based on an adjustment for PTO delay of three hundred two (302) days pursuant to 37 CFR 1.703(a)(1), and one hundred eighty-six (186) and nineteen (19) days pursuant to CFR 1.703(a)(2), reduced by fifty-six (56), ninety-six (96), eighty-seven (87), and ninety-one (91) days of applicant delay pursuant to 37 CFR 1.704(b), and seventy-four (74), seventy-five (75), twelve (12) and five (5) days pursuant to 37 CFR 1.704(c)(8).

Applicants point out that they should have been assessed additional days of delay under 37 CFR 1.704(c)(8). Applicants filed a Supplemental IDS on May 14, 2007, after an amendment had been previously filed on January 3, 2007. Accordingly, pursuant to 37 CFR 1.704(c)(8), one hundred thirty-one (131) days of Applicant delay should have been assessed for this filing.

Applicants also point out that they should have been assessed additional delay of seventy-one (71) days pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on April 16, 2010. In reply, Applicants filed an RCE on July 15, 2010, to which the Office responded by mailing another Notice of Allowance on September 24, 2010. Pursuant to 37 CFR 1.704(c)(10), the applicants should be assessed delay "beginning on the date the amendment under §1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper". Accordingly, Applicant delay of seventy-two (72) days should have been assessed, not seventy-one (71) as noted by Applicants.

Finally, Applicants argue that they should not have been assessed Applicant delay of five (5) days pursuant to 37 CFR 1.704(c)(8), for filing a Terminal Disclaimer on March 22, 2010, after an Amendment had allegedly been filed on March 17, 2010. Applicants assert that the Amendment was in fact filed on March 22, 2010, not March 17, 2010, as noted in PAIR. A review of the Image File Wrapper confirms that Applicants are correct. Accordingly, Applicants should not have been assessed five (5) days of delay with respect to this filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **zero (0) days** (507 (302+186+19) days of PTO delay, reduced by 694 (56+96+131+87+74+91+75+12+72) days of applicant delay).

Receipt of the \$200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Anthony Knight  
Director  
Office of Petitions

Enc: copy of PAIR screen



# Patent Term Adjustments



PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10629308    Search    Explanation of PTA Calculation    Explanation of PTE Calculation

## PTA Calculations for Application: 10629308

Application Filing Date 07/29/2003	Overlapping Days Between (A and B) or (A and C): 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 507
A Delays 507	PTO Manual Adjustment - 198
B Delays 0	Applicant Delay (APPL) 496
C Delays 0	Total PTA (days) 0

\* - Sorted Column

## File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
170	03/04/2011		P028	Adjustment of PTA Calculation by PTO		126	0
154	09/24/2010		MN/-	Mail Notice of Allowance		0	0
153	09/23/2010		IREV	Issue Revision Completed		0	0
152	09/23/2010		N/-	Notice of Allowance Data Verification Completed		0	0
151	09/13/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing		0	0
150	09/13/2010		DVER	Document Verification		0	0
149	09/13/2010		CNTA	Allowability Notice		0	0
147	08/18/2010		DOCK	Case Docketed to Examiner in GAU		0	0
143	07/22/2010		ABN9	Disposal for a RCE / CPA / R129		0	0
148	07/15/2010		IDSC	Information Disclosure Statement considered		0	0
146	07/15/2010		M844	Information Disclosure Statement (IDS) Filed		0	0
145	07/15/2010		RCAP	Reference capture on IDS		0	0
144	07/15/2010		RCEX	Request for Continued Examination (RCE)		0	0
142	07/15/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	0
141	07/15/2010		BRCE	Workflow - Request for RCE - Begin		0	0
140	06/24/2010		FIDC	Finished Initial Data Capture		0	0
139	05/02/2010		P574	Paralegal TD Accepted		0	0
138	04/20/2010		EIDC	Export to Initial Data Capture		0	0
137	04/16/2010		MN/-	Mail Notice of Allowance		0	0
136	04/15/2010		IREV	Issue Revision Completed		0	0
135	04/15/2010		DVER	Document Verification		0	0
134	04/15/2010		N/-	Notice of Allowance Data Verification Completed		0	0
133	04/15/2010		DOCK	Case Docketed to Examiner in GAU		0	0
132	04/12/2010		CNTA	Allowability Notice		0	0
128	03/23/2010		FWDX	Date Forwarded to Examiner		0	0
130	03/22/2010	03/17/2010	DIST	Terminal Disclaimer Filed	5	127	0
127	03/17/2010		A-NE	Amendment after Final Rejection		0	0
131	03/04/2010		IDSC	Information Disclosure Statement considered		0	0
129	03/04/2010		M844	Information Disclosure Statement (IDS) Filed		0	0
126	03/04/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	0
125	01/21/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	0
124	01/19/2010		CTFR	Final Rejection		0	0
121	11/14/2009		FWDX	Date Forwarded to Examiner		0	0
123	10/19/2009		IDSC	Information Disclosure Statement considered		0	0
122	10/19/2009	10/07/2009	M844	Information Disclosure Statement (IDS) Filed	12	120	0
119	10/19/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	0
120	10/07/2009		A-	Response after Non-Final Action		0	0
118	07/07/2009	06/18/2009	MCTNF	Mail Non-Final Rejection	13	109	0
117	07/06/2009		CTNF	Non-Final Rejection		0	0
116	05/08/2009		FWDX	Date Forwarded to Examiner		0	0
115	05/04/2009	02/18/2009	SA-	Supplemental Response	25	109	0
112	03/04/2009		FWDX	Date Forwarded to Examiner		0	0
110	03/04/2009		FWDX	Date Forwarded to Examiner		0	0
108	03/04/2009		ABN9	Disposal for a RCE / CPA / R129		0	0
111	02/18/2009		AMPR	RCE: AF Processed		0	0
109	02/18/2009	11/19/2008	RCEX	Request for Continued Examination (RCE)	91	97	0
107	02/18/2009		XT/G	Request for Extension of Time - Granted		0	0
106	02/18/2009		BRCE	Workflow - Request for RCE - Begin		0	0
105	02/02/2009		MCTAV	Mail Advisory Action (PTOL - 303)		0	0
104	01/30/2009		CTAV	Advisory Action (PTOL-303)		0	0
103	12/17/2008		MCTAV	Mail Advisory Action (PTOL - 303)		0	0
102	12/16/2008		CTAV	Advisory Action (PTOL-303)		0	0
101	12/05/2008		FWDX	Date Forwarded to Examiner		0	0
100	11/19/2008		A-NE	Amendment after Final Rejection		0	0
99	11/14/2008		CADB	Correspondence Address Change		0	0
98	10/17/2008		CADB	Correspondence Address Change		0	0
97	08/19/2008		MCTFR	Mail Final Rejection (PTOL - 326)		0	0
96	08/18/2008		CTFR	Final Rejection		0	0
114	07/15/2008		RCAP	Reference capture on IDS		0	0
113	07/15/2008	05/02/2008	M844	Information Disclosure Statement (IDS) Filed	24	89	0
93	07/15/2008		IDSC	Information Disclosure Statement considered		0	0
92	07/15/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	0
91	06/10/2008		DOCK	Case Docketed to Examiner in GAU		0	0
90	06/03/2008		FWDX	Date Forwarded to Examiner		0	0
89	05/02/2008	03/05/2008	A-	Response after Non-Final Action	82	80	0
88	05/02/2008		XT/G	Request for Extension of Time - Granted		0	0
94	01/15/2008		IDSC	Information Disclosure Statement considered		0	0
87	01/15/2008		RCAP	Reference capture on IDS		0	0
86	01/15/2008		M844	Information Disclosure Statement (IDS) Filed		0	0
84	01/15/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	0
95	11/05/2007		IDSC	Information Disclosure Statement considered		0	0
83	11/05/2007		RCAP	Reference capture on IDS		0	0
82	11/05/2007		M844	Information Disclosure Statement (IDS) Filed		0	0
81	11/05/2007		WIDS	Information Disclosure Statement (IDS) Filed		0	0
80	11/05/2007	05/03/2007	MCTNF	Mail Non-Final Rejection	106	56	0
79	10/29/2007		CTNF	Non-Final Rejection		0	0
73	09/10/2007		EOSP	to Close the A/R Record and Reset the Status for Expired Suspensions.		0	0
74	06/12/2007		FWDX	Date Forwarded to Examiner		0	0
78	05/14/2007		IDSC	Information Disclosure Statement considered		0	0
67	05/14/2007		RCAP	Reference capture on IDS		0	0
66	05/14/2007		M844	Information Disclosure Statement (IDS) Filed		0	0
65	05/14/2007		WIDS	Information Disclosure Statement (IDS) Filed		0	0
75	01/30/2007		IDSC	Information Disclosure Statement considered		0	0
64	01/30/2007		RCAP	Reference capture on IDS		0	0
63.7	01/30/2007		M844	Information Disclosure Statement (IDS) Filed		0	0
63	01/30/2007		WIDS	Information Disclosure Statement (IDS) Filed		0	0
62	01/11/2007		MAISP	Mail Letter Suspending Prosecution at Applicant's Request		0	0
61	01/10/2007		AISP	Suspension Letter- Applicant Initiated		0	0

59	01/10/2007	FWDX	Date Forwarded to Examiner	0
57	01/10/2007	FWDX	Date Forwarded to Examiner	0
55	01/10/2007	ABH9	Disposal for RCE / CPA / RCE	0
60	01/03/2007	M856	Letter Requesting Suspension of Prosecution	0
50	01/03/2007	AKSD	Amendment Submitted/Entered with Filing of CPA/RCE	0
56	01/03/2007	09/29/2006	Request for Continued Examination (RCE)	56 47
54	01/03/2007	XT/G	Request for Extension of Time Granted	0
53	01/03/2007	BRCE	Workflow - Request for RCE - Begin	0
52	12/22/2006	MCTAV	Mail Advisory Action (PTOL 303)	0
51	12/21/2006	CTAV	Advisory Action (PTOL 303)	0
50	08/29/2006	FWDX	Date Forwarded to Examiner	0
49	08/21/2006	A.NE	Amendment after Final Rejection	0
48	06/29/2006	MW/AC	Mail Notice of Withdrawn Action	0
47	06/29/2006	MCTFR	Mail Final Rejection (PTOL - 326)	0
46	06/27/2006	CTFR	Final Rejection	0
45	06/27/2006	W/AC	Withdrawing/Vacating Office Action Letter	0
44	06/15/2006	MCTNF	Mail Non-Final Rejection	0
43	06/12/2006	CTNF	Non-Final Rejection	0
42	04/04/2006	FWDX	Date Forwarded to Examiner	0
41	03/29/2006	ELC	Response to Election / Restriction Filed	0
40	03/10/2006	PA	Change in Power of Attorney (May Include Associate POA)	0
39	03/10/2006	C.AD	Correspondence Address Change	0
38	02/27/2006	MCTRS	Mail Restriction Requirement	0
37	02/21/2006	CTRS	Restriction/Election Requirement	0
36	01/20/2006	FWDX	Date Forwarded to Examiner	0
35	12/23/2005	IDSC	Information Disclosure Statement considered	0
34.7	12/23/2005	12/23/2005	RCAP Reference capture on IDS	0
34	12/23/2005	12/23/2005	M844 Information Disclosure Statement (IDS) Filed	32
33	12/23/2005	12/23/2005	WIDS Information Disclosure Statement (IDS) Filed	0
32	12/23/2005	10/28/2005	A... Response after Non-Final Action	56 30
31	12/23/2005	09/29/2004	XT/G Request for Extension of Time Granted	302 -1
30	07/28/2005	09/29/2004	MCTNF Mail Non-Final Rejection	0
29	07/25/2005	09/29/2004	CTNF Non-Final Rejection	0
28	07/02/2005	DOCK	Case Docketed to Examiner in GAU	0
26	03/10/2005	PA	Change in Power of Attorney (May include Associate POA)	0
27	03/09/2005	C.AD	Correspondence Address Change	0
25	01/27/2005	TSSCOMP	IFW/TSS Processing by Tech Center Complete	0
24	01/27/2005	DOCK	Case Docketed to Examiner in GAU	0
20	10/25/2004	WROIPE	Application Return from OIPE	0
19	10/25/2004	ROIPE	Application Return TO OIPE	0
18	10/25/2004	WROIPE	Application Return from OIPE	0
17	10/25/2004	COMP	Application Is Now Complete	0
16	10/25/2004	W/OA	Pre-Exam Office Action Withdrawn	0
15	10/25/2004	ROIPE	Application Return TO OIPE	0
14	10/25/2004	WROIPE	Application Return from OIPE	0
13	10/25/2004	COMP	Application Is Now Complete	0
23	05/13/2004	RCAP	Reference capture on IDS	0
22.7	05/13/2004	M844	Information Disclosure Statement (IDS) Filed	0
22	05/13/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
11	11/10/2003	W/OA	Pre-Exam Office Action Withdrawn	0
9	11/10/2003	INCD	Notice Mailed Application Incomplete Filing Date Assigned	0
8	11/07/2003	W/OA	Pre-Exam Office Action Withdrawn	0
7	11/06/2003	ROIPE	Application Return TO OIPE	0
5	11/06/2003	COMP	Application Is Now Complete	0
6	11/05/2003	OIPE	Application Dispatched from OIPE	0
4	10/14/2003	CLSS	CASE CLASSIFIED BY OIPE	0
3	10/14/2003	CL94	Cleared by OIPE/CSRE	0
2	09/08/2003	SCAN	IFW Scan & PACR Auto Security Review	0
21	08/15/2003	ALPE	Preliminary Amendment	0
12	07/29/2003	ADDLFEE	Additional Application Filing Fees	0
1	07/29/2003	TEOX	Initial Exam Team on	0

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